

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Waiver of FCC Rule Sections 1.946 (c) and (d) for )  
Wireless Site-based and Mobile-only System )

ORDER

Adopted: April 15, 2020

Released: April 15, 2020

By the Chief, Wireless Telecommunications Bureau; Chief, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. This Order addresses a petition for waiver of construction requirements (Petition) filed on March 27, 2020, by the Enterprise Wireless Alliance (EWA).<sup>1</sup> EWA requests a waiver for certain site-based and mobile-only wireless licensees to give them additional time to satisfy their construction requirements in light of the disruptions caused by the coronavirus pandemic (COVID-19).<sup>2</sup> Pursuant to section 1.925(b)(3)(ii) of the Commission’s rules,<sup>3</sup> the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau grant the Petition in part. Specifically, this Order provides all site-based and mobile-only wireless licensees with construction deadlines from March 15, 2020, through and including May 15, 2020 (Licensees),<sup>4</sup> an additional 60 days to meet their existing deadlines.<sup>5</sup>

2. We take this action in the public interest to provide temporary relief to the Licensees in light of the supply chain delays and other construction and equipment delivery delays that may occur as a result of COVID-19 and the declared state of national emergency.<sup>6</sup> Because information related to the pandemic is changing quickly, the Commission is continuing to monitor the situation and may consider further extensions.

II. DISCUSSION

3. It is well-established that the Commission may waive a rule where the particular facts make

<sup>1</sup> See Enterprise Wireless Alliance, Petition for Waiver of FCC Rule Sections 1.946(c) and (d) for Wireless Site-based and Mobile-only Systems, filed March 27, 2020 (Petition).

<sup>2</sup> See Petition.

<sup>3</sup> 47 CFR § 1.925(b)(3)(ii).

<sup>4</sup> The Licensees subject to this Order are all the site-based and mobile-only licensees with the radio service codes listed on *Appendix A* hereto.

<sup>5</sup> As noted in the Petition, the Licensees are licensed primarily, but not exclusively, pursuant to Parts 90 and 101 of the Commission’s rules and have varying construction deadlines based upon the date each license was granted. See Petition at 2. Each of these Licensees will have 60 additional days from its specific, existing deadline. For example, a Licensee with a deadline of March 27, 2020, will have until May 26, 2020.

<sup>6</sup> See <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>.

strict compliance inconsistent with the public interest,<sup>7</sup> and it may take into account unique considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>8</sup> The Commission may grant a waiver pursuant to section 1.925(b)(3) of the Commission's rules when: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and a grant of the requested waiver would be in the public interest; or (ii) in view of the unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.<sup>9</sup> We find it in the public interest to grant, in part, EWA's waiver request because application of our construction rule would be unduly burdensome and contrary to the public interest given the unique and unusual circumstances presented by COVID-19.

4. In the Petition, EWA seeks a waiver, pursuant to section 1.925 of the Commission's rules, of Commission rule sections 1.946(c) and (d), which articulate the consequences for failure to meet the construction requirements and the requirements for licensees to notify the Commission of compliance with their construction and coverage requirements.<sup>10</sup> EWA specifically requests a waiver for all site-based and mobile-only wireless licensees with construction deadlines between March 15, 2020, and August 31, 2020, to satisfy their construction requirements by August 31, 2020.<sup>11</sup> In support of this request, EWA suggests that additional time is warranted and in the public interest given the "extraordinary disruption" being caused by COVID-19 during times that are "unprecedented" and clearly "not normal."<sup>12</sup> Indeed, EWA explains that much of the country is under mandatory or recommended self-quarantine at home and social distancing outside of their homes.<sup>13</sup> EWA describes significant supply chain delays that affect the availability of wireless telecommunications equipment and the unavailability of employees to prepare the equipment, deliver the equipment, and place it into operation.<sup>14</sup> Not only are employees' movements restricted during the pandemic, EWA explains, but also those employees who are available must prioritize critical communications services, particularly those used by public safety entities and medical providers.<sup>15</sup>

5. We agree with EWA that COVID-19 is affecting the ability of many site-based and mobile-only licensees to meet their construction deadlines. Unlike a construction waiver involving a natural disaster impacting discrete parts of the country,<sup>16</sup> the pandemic involves the vast majority of states' issuing "stay-at-home" orders to non-essential businesses and social distancing guidelines for workers. These orders and guidelines are essential to secure the health and safety of the public, but they also create gaps in all phases of the supply and deployment chain. We recognize that the construction of a communications system involves participation from a wide variety of people across state lines, from programmers to tower climbers, from the designing and manufacturing, shipment, and delivery of equipment, as well as site-preparation, installation, testing, and provisioning. Accordingly, we find that COVID-19 presents unique and unusual circumstances sufficient to support our grant of a waiver

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<sup>7</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>8</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

<sup>9</sup> 47 CFR § 1.925(b)(3).

<sup>10</sup> See Petition at 1; 47 CFR §§ 1.925, 1.946(c) and (d).

<sup>11</sup> See Petition at 1.

<sup>12</sup> *Id.* at 1, 3.

<sup>13</sup> *Id.* at 1-2.

<sup>14</sup> *Id.* at 3.

<sup>15</sup> *Id.*

<sup>16</sup> See *id.* at 1, 3-4.

providing an additional 60 days to Licensees with construction deadlines from March 15, 2020, through and including May 15, 2020, to meet their construction requirements.<sup>17</sup> We decline, however, to extend all the Licensees' construction deadlines until August 31, 2020, as EWA requests, but the Commission may consider further extensions if warranted.

### III. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and section 1.925(b)(3)(ii) of the Commission's rules, 47 CFR § 1.925(b)(3)(ii), the petition for waiver filed March 27, 2020, by the Enterprise Wireless Alliance, is hereby GRANTED IN PART, to the extent provided and explained herein.

7. IT IS FURTHER ORDERED that Part 22, 80, 87, 90, and 101 licensees under the radio service codes listed in Appendix A hereto having construction deadlines from March 15, 2020, through and including May 15, 2020, shall have their construction deadlines extended for 60 days as described herein.

8. These actions are taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's rules, 47 CFR §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Donald K. Stockdale  
Chief  
Wireless Telecommunications Bureau

Lisa M. Fowlkes  
Chief  
Public Safety and Homeland Security Bureau

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<sup>17</sup> While EWA requests a waiver of Section 1.946 (d) (requiring notification of compliance within 15 days of a construction deadline), our partial grant of EWA's petition extends the construction deadline for each license, making a separate extension of the notification deadline unnecessary. *See* 47 CFR §§ 1.946 (c) and (d).

## APPENDIX A

NON PUBLIC SAFETY SITE-BASED AND MOBILE-ONLY RADIO SERVICES FOR  
PURPOSES OF THIS ORDER

AA	Aviation Auxiliary Group
AB	Aural Microwave Booster
AF	Aeronautical and Fixed
AI	Aural Intercity Relay
AR	Aviation Radionavigation
AS	Aural Studio Transmitter Link
CA	Commercial Air-Ground Radiotelephone
CB	BETRS
CD	Paging and Radiotelephone
CE	Digital Electronic Message Service (Common Carrier)
CF	Common Carrier Fixed Point-to-Point Microwave
CG	General Aviation Air-ground Radiotelephone
CJ	Commercial Aviation Air-ground Radiotelephone
CL	Cellular
CO	Offshore Radiotelephone
CR	Rural Radiotelephone
CT	Local Television Transmission
GB	Business, 806-821/851-866 MHz, Conventional
GI	Other Indust/Land Transp, 896-901/935-940 MHz, Conv.
GJ	809-824/854-869 MHz, Conventional (post-rebanding code per FCC 04-168)
GL	900 MHz Convention SMR (SMR, Site-Specific)
GM	800 MHz Convention SMR (SMR, Site-Specific)
GO	Other Indust/Land Transp, 806-821/851-866 MHz, Conv.
GR	SMR, 896-901/935-940 MHz, Conventional
GS	Private Carrier Paging, 929-930 MHz
GU	Business, 896-901/935-940 MHz, Conventional
GX	SMR, 806-821/851-866 MHz, Conventional
IG	Industrial/Business Pool, Conventional
IK	Industrial/Business Pool, Commercial, Conventional
LN	902-928 MHz Location Narrowband (non-multilateration)
LP	Broadcast Auxiliary Low Power
LV	Low Power Wireless Assist Video Devices
LW	902-928 MHz Location Wideband (Grandfathered AVM)
MA	Marine Auxiliary Group
MC	Coastal Group
MK	Alaska Group
MG	Microwave Industrial/Business Pool
MR	Marine Radiolocation Land
NC	Nationwide Commercial 5 Channel, 220 MHz
PE	Digital Electronic Message Service (Private Operational Fixed)

QD	Non-Nationwide Data, 220 MHz
QO	Non-Nationwide Other, 220 MHz
QQ	Intelligent Transportation Service (Non-Public Safety)
QT	Non-Nationwide 5 Channel Trunked, 220 MHz
RP	Broadcast Auxiliary Remote Pickup
RS	Land Mobile Radiolocation
TB	TV Microwave Booster
TI	TV Intercity Relay
TP	TV Pickup
TS	TV Studio Transmitter Link
TT	TV Translator Relay
WA	Microwave Aviation
WM	Microwave Marine
WR	Microwave Radiolocation
YB	Business, 806-821/851-866 MHz, Trunked
YG	Industrial/Business Pool, Trunked
YI	Industrial/Business Pool, Trunked
YJ	Business/Industrial/Land Trans, 809-824/854-869 MHz, Trunked
YK	Industrial/Business Pool - Commercial, Trunked
YL	896-901/935-940 MHz, Trunked (post-rebanding code per FCC 04-168)
YM	800 MHz Trunked SMR (SMR, Site-Specific)
YO	Other Indust/Land Transp. 806-821/851-866 MHz, Trunked
YS	SMR, 896-901/935-940 MHz, Trunked
YU	Business, 896-901/935-940 MHz, Trunked
YX	SMR, 806-821/851-866 MHz, Trunked

**PUBLIC SAFETY SITE-BASED AND MOBILE-ONLY RADIO SERVICES  
FOR PURPOSES OF THIS ORDER**

GE	Public Safety/Special Emergency and Public Safety, National
GF	Public Safety Ntl Plan, 821-824/866-869 MHz, Conv.
GP	Public Safety/Spec Emerg, 806-821/851-866 MHz, Conv.
IQ	DSRC / Intelligent Transportation Service
MW	Microwave Public Safety Pool
PA	Public Safety 4940-4990 MHz Band
PW	Public Safety Pool, Conventional
QM	Non-Nationwide Public Safety/Mutual Aid, 220 MHz
SG	Conventional Public Safety 700 MHz
SL	Public Safety 700 MHz Band-State License
SY	Trunked Public Safety 700 MHz
YE	Public Safety/Special Emergency and Public Safety, National
YF	Public Safety Ntl Plan, 821-824/866-869 MHz, Trunked
YP	Public Safety/Spec Emerg, 806-821/851-866 MHz, Trunked
YW	Public Safety Pool, Trunked